NOMINATION OF ELLIOTT ABRAMS

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

NOMINATION OF ELLIOTT ABRAMS, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

NOVEMBER 17, 1981

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NOMINATION OF ELLIOTT ABRAMS

TUESDAY, NOVEMBER 17, 1981

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C.

The committee met, pursuant to notice, at 9:32 a.m., in room 4221, Dirksen Senate Office Building, Hon. Charles H. Percy (chairman of the committee) presiding.

Present: Senators Percy, Lugar, Mathias, Kassebaum, Pressler, and Pell.

The CHAIRMAN. The committee is meeting this morning on the nomination of Elliott Abrams to be Assistant Secretary of State for Human Rights and Humanitarian Affairs.

"Concern for human rights is not just a policy of the United States, it is an underlying principle of our political system and a fundamental factor in the appeal of democracy to people throughout the world." That is not a new statement. That is a statement I made 6 months ago when, with great reluctance, I felt compelled to vote against the President's nominee to be Assistant Secretary of State for Human Rights and Humanitarian Affairs.

Today my belief in the fundamental need for an evenhanded and credible U.S. human rights policy remains as strong as it was last June, if not stronger. But what appears to have fundamentally changed, and I believe for the better, is the manner in which the administration intends to pursue its human rights policy. Certainly, the selection of Elliott Abrams, presently the Assistant Secretary of State for International Organizations, for this most important post signals a real commitment by the administration to take the high road when it comes to human rights.

These encouraging developments reflect the view that many of us in the Senate repeatedly have expressed, namely it is a terribly flawed policy only to speak out against human rights abuses in Communist countries and nations with which we do not have friendly relations. The United States only can be an effective advocate for human rights when our leaders are willing to speak out broadly across the board.

Yet we also have recognized that human rights concerns must be balanced against the range of political and strategic considerations that contribute to the development of a comprehensive U.S. foreign policy. Thus it may not always be the wise course to speak out publicly against friend or foe when the same results can be achieved in a more quiet fashion.

On these issues, reasonable people may differ as to the best course of action. But where most everyone finds agreement is that the Assistant Secretary for Human Rights and Humanitarian Affairs

must be flexible in his approach to the issues, skillful in his diplomacy, and blessed with a sympathetic ear for those whose voices deserve to be heard.

For all these reasons, I am strongly encouraged by the selection of Elliott Abrams for this sensitive post and am confident that his nomination will serve as a loud and clear signal to the rest of the world that the United States places human rights at the top of its foreign policy agenda.

Secretary Abrams, we are pleased to have you here today. If you have opening comments we would be pleased to hear from you.

Mr. ABRAMS. Thank you, Mr. Chairman. I am honored to appear before you today.

The CHAIRMAN. Excuse me. I wonder if I could interrupt you so very soon for the purpose of recognizing our distinguished colleague, former Ambassador, now Senator, Moynihan. Patrick, you have arrived in the nick of time.

STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM NEW YORK

Senator MOYNIHAN. Thank you, Mr. Chairman. I am very pleased to have the honor to introduce to this distinguished committee my former associate, Mr. Elliott Abrams, a citizen of New York. He is a young man as these things go, but is a person already of considerable accomplishment and great promise.

As you know, he now is Assistant Secretary of State for International Organizations, a demanding and, if successfully conducted, anonymous position within the Secretary of State's office.

The CHAIRMAN. I wonder if you could please pull the microphone closer, Senator Moynihan.

Senator MOYNIHAN. Of course.

I was saying that his present position as Assistant Secretary of State, to the degree that it is done successfully, nobody knows it is done. It is the role of the President and the Ambassador to the United Nations to speak to the public, but the Assistant Secretary guides their policies and sorts out their affairs and performs many more activities in the wide range of international organizations in which the United States takes part.

Previously Mr. Abrams served here in the Senate as an assistant to me and as an assistant to Senator Jackson. He has impressed us all with his loyalty and his fidelity to principle and his large concern to see American Government succeed. I am sure he will carry those same principles into his new assignment if this committee sees fit to recommend him for it.

I thank you for allowing me to speak. When Mr. Abrams was my administrative assistant, I was never late for a confirmation hearing before this committee. [Laughter.]

The CHAIRMAN. We thank you very much for your presence here this morning, Senator Moynihan, and for the very thoughtful comments that you have made.

Senator MOYNIHAN: Thank you, Mr. Chairman.

The CHAIRMAN: Now, Secretary Abrams, we would be happy to hear from you.

[Mr. Abrams' biographical data follows:]

BIOGRAPHICAL DATA OF ELLIOTT ABRAMS

Position for which considered: Assistant Secretary of State for Human Rights and Humanitarian Affairs.

Former position: Assistant Secretary of State for International Organization Affairs.

Office address: Department of State, Washington, D.C.

Born: January 24, 1948, New York, N.Y.

Legal residence: Washington, D.C.

Family: Wife: Former Rachel Mark; son: Jacob.

Home address: 4521 Grant Road NW., Washington, D.C.

Education: B.A. 1969, Harvard University; M. Sc. (Economics) 1970, London School of Economics; J.D. 1973, Harvard Law School.

Language ability: French (fluent, self-appraisal) and Spanish (read, self-appraisal).

Experience:

Non-Government: 1973–75, attorney, law firm of Breed, Abbott and Morgan, New York, N.Y.; 1979–81, attorney, law firm of Verner, Liipfert, Bernhard and McPherson, Washington, D.C.

Government: 1975, assistant counsel, U.S. Senate Permanent Subcommittee on Investigations, 1975–76, special counsel to Senator Henry M. Jackson; 1977–79 special counsel, then chief of staff to Senator Daniel P. Moynihan.

Publications:

Essays and book reviews in Commentary, The Public Interest, The American Spectator, and Policy Review.

Memberships:

Committee for the Free World, Council on Foreign Relations, the Foundation for Democratic Education (vice president), New York State and American Bar Association.

STATEMENT OF ELLIOTT ABRAMS, ASSISTANT SECRETARY OF STATE-DESIGNATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Mr. ABRAMS. Mr. Chairman, I am honored to appear before you today as the President's nominee for Assistant Secretary of State for Human Rights and Humanitarian Affairs.

The Human Rights Bureau is a new institution in the Department of State, dating only from 1977. In fact, I will, if confirmed by the committee, be only the second person ever to hold that title.

But the role of human rights in our foreign policy dates not from 1977 but from 1776. The United States was founded "to secure the blessings of liberty" and, as the President recently said, "The promotion of liberty has always been a central element of our nation's foreign policy."

The world in which we live is, as I have had ample opportunity to learn while in charge of U.N. affairs, not one in which freedom is thriving. As our human rights reports make clear each year, and as reports from Freedom House and other organizations also reveal, most of the countries in the world are not free as we would understand the term. In some, political liberty is marginally infringed: in others, it is under heavy assault; in too many, it has been eliminated.

The President recently described our duty in this sort of world:

> We will speak up against the enemies of freedom and we will try to help its friends. We will encourage those who seek freedom, not least by telling the simple truth of their efforts and the efforts of those who seek to oppress them.

I do not underestimate the difficult of this task. We must live in the world as we find it and this requires that we have some form of relationship with countries whose human rights records range from the excellent to the despicable. There are two rules which I will use to guide my efforts.

The first is that we must tell the truth. In the human rights country reports, we have the statutory obligation to do this. But we have, moreover, a moral obligation. We owe it to people everywhere struggling for freedom to weigh our words carefully and to respect the sanctity of their efforts. If we corrupt the language we use to discuss liberty, we commit a grave offense against all those, including tens of thousands of Americans, who have given their lives to preserve it.

Second, we must try to be effective. In some cases this will mean a public statement which may condemn a government's behavior in the strongest terms. In other cases, the most effective route may be diplomatic pressure on a government. This choice of tactics should be made with a practical goal in mind: How can we help? How can we help the people there to expand the liberties available to them? How can we help reduce government pressure? How can we help to expand the frontiers of liberty by an inch or by a mile?

Our aim must never be simply to make us feel good or others feel bad. It must be to defend and to promote the cause of liberty. If we can do this successfully, then we as a people will be worthy of the Americans who have gone before us.

I will be happy to answer any questions the committee may have. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Secretary Abrams. I wonder if you could describe for the record your understanding of the legislative mandate of this position, and also the executive mandate as enunciated by the Executive Order of August 30, 1977, in which the following principal functions of the Assistant Secretary were set out. Part of the Executive order, for example, says that the Assistant Secretary will be directly responsible to the Secretary of State.

Would you explain the organizational structure? Just what will be your relationships at the variour echelons? What does it mean when it says that you will be directly responsible to the Secretary of State?

Mr. ABRAMS. As I understand it, I would divide the legislation into three parts, but in no particular order. The country reports are required under statute, and the Assistant Secretary for Human Rights is primarily responsible for the compilation of that book of country reports on human rights for every country in the world.

Second, the statutes require that human rights be a prime consideration in the provision of American assistance directly or indirectly to other countries. Section 116 (a) requires it with respect to economic assistance, section 502(b) with respect to security assistance, and section 701 with respect to voting in banks, Inter-American Development Bank and so forth.

The requirement there varies from statute to statute, but essentially it is that human rights be a prime consideration whenever the United States is going to give assistance to another country.

Finally, the statutes make clear that there is a general role for the Assistant Secretary in trying to make sure that our foreign policy

in general has human rights goals at its core. This would go beyond simply the question of provision of assistance or how we vote in one of the international banks, but rather our general foreign policy toward the country or toward the region of the world, making sure that that policy promotes human right insofar as we can.

The organizational structure I suppose will vary from administration to administration. Needless to say, no Assistant Secretary spends all of his time in the Secretary's office. The bulk of the work I think is carried on with the other assistant secretaries. In the case of this job, it is the regional assistant secretaries and probably the Assistant Secretary for Economics and Business, who has a great deal to do with provisions of economic assistance.

But it has been made clear, I think, in the statute and we in the administration certainly accept this, that the Assistant Secretary for Human Rights will have to have direct access to the Secretary and to the Deputy Secretary whenever that is required, whenever, for example, there are disputes within the building about a particular provision of the law or about a particular vote in a bank. Whenever there are disputes, of course these are taken upstairs for a decision.

In the Carter administration, the person most closely associated with these decisions was Warren Christopher, the Deputy Secretary. I think as we evolve we probably will evolve in that direction as well, with Judge Clark taking a very special role.

It is clear that in some of these cases, especially the most important ones, the Secretary himself will have to make the decisions personally.

The CHAIRMAN. Who were the persons involved in the decision that you should become the Assistant Secretary? Again, this is a decision which I truly commend.

Mr. ABRAMS. Thank you, Mr. Chairman.

I guess it started with Judge Clark, the Deputy Secretary of State. He and I had very lengthy conversations about the policy and the position. When I told him I would do it, he took that prospect to the Secretary.

From there it went over to the White House. I cannot actually tell you who at the White House needed to sign off on this and who was involved in it. I am happy to say that it all moved very quickly, but I am really not sure who was involved at that end of it.

The CHAIRMAN. In your own statement you indicated, "The World in which we live is," and then you parenthetically say that you have had ample opportunity to observe that world in terms of U.N. affairs, but that it is not one in which freedom is thriving. That certainly is true.

To a great extent, the ideological appeal that we make is a battle for people's minds. In some areas of the world we are losing that battle. We are trying to strengthen that.

I was greatly alarmed at a memorandum written inside the ICA which proposed that the Voice of America become a voice of Moscow in a sense, that the same type of propaganda should emanate from it, as from Moscow, that it should be a hard sell and propagandize America, rather than just tell the truth and let the truth be looked upon as the genius of American political life and American society.

How did you react to that internal memorandum, which apparently is not policy and certainly would not become policy? It would be over

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our dead bodies if it ever became policy, because it would flaunt the law and breach the law which we carefully crafted right here and put into the statute to be absolutely sure that the Voice of America would be looked upon as objective and authoritative providing true reporting of events as they transpired, without the taint of propaganda, without the taint of the heavy hand of ambassadors and anyone else who would want to change and distort the news in a sense.

Do you feel that speaking out for human rights and the freedom to do so might be somewhat impaired if the integrity of the Voice of America ever were questioned?

Mr. ABRAMS. I am inclined to begin my answer by saying that I hate to get into the question of the Voice of America. I have enough trouble in the human rights area. But I will answer your question.

I think the goal of all of the discussions about the Voice of America is a good one. The goal is not to impair the integrity, but rather is to try to put, if you will, a sharper edge on the ability of Voice of America to respond to the extraordinary assaults that are made upon us by the Soviet Union and its associated states.

We hear these attacks in the United Nations and at times they really are surreal. You know, you have speeches about national independence being made by Byelorussia. The mind boggles at that kind of thing.

And we have not been terribly successful in figuring out how one can respond to this. At the U.N. Human Rights Commission, one sometimes has the impression that human rights in the world are in great shape, just absolutely wonderful shape, except for Latin America; that that is the only place on the face of the Earth where there is not full recognition of all human rights.

Again, there is an element of surrealism in that. We are accused in these bodies of the most unbelievable heinous crimes, such as chemical warfare. These are incredible charges.

I think the effort was to figure out a way by which Voice of America could handle some of these charges against us and could begin to throw back in the faces of those who made these charges their own records, because their own records in these areas are terrible

The trick, of course, is to do this in a manner which does not compromise the integrity of VOA and compromise its reputation for speaking the truth and for refusing to shade facts in order to achieve a preconceived result. That is going to be a very difficult thing.

I think thus far we really have not gotten entirely through the process of figuring out how to do it. I think the problem with which these efforts are trying to deal is a very real problem.

The CHAIRMAN. You mentioned your activities in the United Nations. I wonder if you could tell us in what way your experience with the Bureau of International Organizations would be of value to you in your work as the Department's human rights spokesman.

Mr. ABRAMS. First, I think it is worth noting that the U.N. system has two human rights bodies: One, the U.N. Human Rights Commission, which meets in Geneva for about 6 weeks starting in early February every year; the other, the equivalent committee at UNESCO, which is called the Committee on Conventions and Recommendations, which is really the human rights body of UNESCO.

As the Assistant Secretary for International Organizations, I have been in charge of our activities in both of those bodies. There is, in addition, constant human rights work being done in New York during the General Assembly, which has been underway now for a couple of months.

I think also I should go beyond the formal responsibilities and say, I think there really is great advantage in simply having been in the State Department since January, because much of the human rights job consists of work within the State Department with other assistant secretaries who have different responsibilities. Therefore, I think one's success depends in good part upon one's ability to work with these people.

Having been in the Department now, I have been working with everybody for 9 months. The IO job is a very good job from this point of view, because it forces you to cooperate and collaborate with everyone, because everyone's work turns up in the U.N. sooner or later. So I think in a way it is a particularly good groundwork for the human rights job.

The CHAIRMAN. I think you have been quoted as saying that it would be your goal to reinvigorate the Human Rights Bureau. For purposes of clarification on the record, to the Bureau itself and to this committee, I wonder if you would describe some of the goals that you have to develop with your colleagues to, as you say, reinvigorate it?

Mr. ABRAMS. The first goal, I think, is in a sense a bureaucratic or institutional one. The Bureau has not had an Assistant Secretary since January 20. As you would expect, this makes it difficult for it to carry on its work. There is no one of actual Assistant Secretary rank to go to the various meetings.

I have enormous respect for the work that Steve Palmer has done as Acting Assistant Secretary, holding the Bureau together at a very difficult time, and he is in the audience now. There are, for example, a number of vacancies at very significant levels within the Bureau that need to be filled quickly. The Deputy Assistant Secretary level, the regional officers; there really are some important spots open. And of course, it has been difficult to attract people from the foreign service because they did not know what the Bureau's future was. I really do not blame people for not volunteering.

But now it will be important to really get things into shape organizationally. That I think is the first priority for the Bureau.

The next thing I would like to do and plan to do once we are more or less shipshape is to get into a question that has really been before you—I was going to say for a few months, but in a sense it has really been a few decades—and that is all the treaties and conventions, from the Genocide Treaty on. I do not think it is a particularly good situation when they just sit here year after year.

It seems to me the administration really should get into an intensive study of these and make some decisions. That is what I propose to do. As soon as the Bureau is fully staffed, my first priority is going to be to study those treaties and conventions and try to get some decisions made within the building, so that we can give you a firm recommendation on at least the first of them.

The CHAIRMAN. You did mention treaties. Are you prepared at all at this stage to comment on what your own personal impression

would be of some of the treaties that have been before this committee, on which we have sought Reagan administration guidance, to get the administration's judgment? We have a hearing coming up next month, for instance, on the Genocide Treaty. Has any policy been formulated by the administration yet on that treaty?

Mr. ABRAMS. The answer is no. I think one of the reasons for that is because we have not had an Assistant Secretary for Human Rights, in a sense, to take charge of the review of that treaty. My own predilection is to have the United States sign and ratify treaties such as the Genocide Treaty, not because they are going to have any effect within the United States, where we are well beyond the minimum standards that these treaties would impose, but really because they have a certain standing in the international community and it is an embarrassment to us in some cases if we do not ratify when many other countries do.

I have not given the Genocide Treaty the intensive study that I intend now to give it. But it would be my hope that no problems arise in the review of it which would prevent me from reaching the conclusion that ratification is possible.

I must say that I do not hold that view of all of the treaties. Some of them have much graver difficulty. I read the night before last the convention or covenant on economic and social rights, which seemed to me to have a very much larger number of difficulties connected with it.

We will do a review in complete good faith of all of these treaties and probably will not come out the same way on all of them. Where we come out will be based on precisely what is in them.

The CHAIRMAN. We do have five human rights covenants. civil and political rights, racial discrimination, economic and social and cultural rights, American convention on human rights, and discrimination against women. Will all of those be put through your process of evaluation and will you be coming to judgments on those?

Mr. ABRAMS. Yes.

The CHAIRMAN. Who at the Department will be sharing in the final judgments that you reach on testimony concerning the Genocide Treaty next month? How many persons will be involved at the Department in formulating that judgment?

Mr. ABRAMS. I would think that the answer to that is initially it would be Davis Robinson, the legal adviser, and me, and that the views that we have will be taken to Judge Clark. His views on these things will carry a great deal of weight in view of his having spent the last 12 years as a judge and having great interest in this from the legal point of view.

The CHAIRMAN. Recently the New York Times published an internal State Department memorandum of U.S. human rights policies. It was apparently approved by Secretary Haig. The memo raises a number of issues which are relevant to your nomination.

First you might comment on the authenticity of the memorandum. Is it accurate and does it now constitute in your judgment the policy of the Department?

Mr. ABRAMS. Yes. We were initially giving it a no comment, but it has now been, I guess the word is, authenticated by the White House. So I would say that it is an authentic State Department memo.

The CHAIRMAN. The memo does deal with human rights in the context of political rights and civil liberties. Do you think that this was too narrow a definition? Should economic rights be considered human rights as well?

Mr. ABRAMS. That is one of the most important and difficult questions about the whole area of human rights. I feel rather strongly that we have to be very, very careful about using the term "economic and social rights," for a couple of reasons.

First is because for the most part the rights, the economic and social rights which are referred to, for example, in that covenant on economic and social rights, are impossible to realize in most countries of the world for decades. They are aspirations. There just is not any way that everyone can achieve the level of social and economic well-being that that covenant calls for in 50 or 100 countries. It is a long, long time. They are therefore aspirations.

The trouble with that is a bit of intellectual confusion can set in, because it is very likely that others will see the political and civil rights as aspirations as well. But those do not wait upon the achievement of any level of economic wealth. There really is no country that is too poor to be free, to have civil and political liberty.

So I think it is important that we not confuse economic and social aspirations, which can perhaps be realized some day, with political rights which can and should be realized today in every country of the world.

I think the other important point to make is this: Our Bill of Rights makes it clear that political rights, civil liberties, are rights held by the individual against the State. They are freedom from the State, such as freedom of religion, freedom of speech, freedom of the press.

These economic and social, what shall we call them, aspirations can only be guaranteed, the convenants seem to suggest, by the State. Again, an intellectual confusion can set in because the freedoms we are talking about are not gifts of the State. The freedom of the press and freedom of speech, for example, are not something that the State grants to citizens. They are inherent human rights of individuals.

I think therefore, once again, they are in a very different situation. So I think the distinction is one which is very important to make in all of our thinking and speaking about human rights.

The CHAIRMAN. Another topic that was discussed in the memorandum is neutralism abroad and the notion of relativism and moral equality between the two superpowers. If we accept the argument that neutralism is gaining adherence, how can the Human Rights Bureau hope to reverse this trend? In this light, how can we hope to distinguish ourselves from the Soviet Union and reinforce the desirability of a democratic government whenever circumstances actually permit?

Mr. ABRAMS. I think that is a very important point. Certainly one of the thoughts behind whatever is the level of neutralist feeling in Europe is that the distinction between the United States and the Soviet Union is one which on the moral and the human rights plane is not particularly large. That is not true.

It seems to me that it can only help the United States and all of our allies to make that clear. One of the ways we make it clear is to

show that around the world one of the key goals of our foreign policy is to promote democracy, to promote human rights. Clearly that is the furthest thing from the minds of the Soviet Union, that is the Soviet leaders.

I think if it becomes clearer to Europeans and others that this aspect of our foreign policy is central and that it is absolutely foreign to Soviet foreign policy, this cannot but help.

The CHAIRMAN. I have a few more questions on the memorandum and then I would yield to Senator Mathias. And we are very pleased to have him with us this morning.

The memo also discusses a two-track system for human rights, with both positive as well as negative components. I wonder if you could discuss for the committee both of those tracks. Tell us what the relative roles of quiet diplomacy that we have heard so much about and public pronouncements will play in the successful implementation of the system.

Mr. ABRAMS. The idea of a two-track policy was that on the one hand we would be acting to promote liberty as we could, and on the other hand we would have to have a negative side as well. That is, we would have to respond to human rights abuses in various ways, in whatever was the appropriate way in the case in point.

How we respond will vary with the case. I would say that I really have no great predilection toward or away from diplomacy as opposed to public statements as a way of having an impact. What I think is important is that in each case we try to have an impact, we try to be effective.

In some cases our relationships with the country are such that there just isn't any way through diplomatic means that we will have any impact on the human rights situation there. In other cases we can hope to have a very substantial impact through diplomacy because our relations with the country in question are close enough to permit this. In those cases we may be much more effective using standard diplomatic practices.

I would note, for example, that the International Committee of the Red Cross, which does very fine work all around the world on behalf of political prisoners, for example, works almost exclusively in the area that is now known as quiet diplomacy. That is, they do not make statements denouncing governments. They do all of their work privately and to great effect. If we were as effective as they are, I think we could all be proud of our efforts.

The CHAIRMAN. There are just two other aspects of the memoranum that I want to explore. First, the memorandum does indicate that you will coordinate human rights policy throughout the Government. If this is accurate, and I assume it is, in what way will this policy coordination be handled?

Mr. ABRAMS. For one thing there are working groups which were established under the Carter administration which we will have to take another look at. I am thinking of trying to set up some other working groups or coordinating groups, which would meet not necessarily to discuss individual cases, you know, how do we vote on this loan in that institution, but to discuss policy more broadly with the relevant agencies, including the White House.

I would have to say that the mechanisms for doing that as far as I am concerned are not yet in place. It is something that we will be working on as soon as I get sworn in, assuming the committee confirms me, of course.

The CHAIRMAN. My final question on the memorandum relates to whether or not you concur with everything in the memorandum and the degree of support that you see for the memorandum now by the State Department, by Judge Clark, by Secretary Haig, and to the extent that you can comment on how it has been embraced and supported by the White House.

In other words, is the policy enunciated in the memorandum, the torch that you will be carrying? And I will say now, I think it is a brilliant memorandum and I concur completely with it.

Mr. ABRAMS. Mr. Chairman, I do concur with the contents of the memorandum. I am happy to say that it was quickly adopted by the Deputy Secretary, the Secretary, and then the White House.

As I recall the path of that memorandum, from the time Judge Clark first became aware of it or got it, read it and gave it to the Secretary, and then it went over to the White House, a startling small number of days passed. Therefore it seems to have been adopted by the people who needed to adopt it, in a sense really very quickly and without much trouble.

The CHAIRMAN. I thank you very much indeed.

Senator Mathias?

Senator MATHIAS. Thank you very much, Mr. Chairman.

Mr. Abrams, I want to congratulate you on this expression of the President's confidence in you and the opportunities that lie before you in doing an important job for the American people.

One of the criteria upon which the Senate must make a decision upon confirmation is the nominee's general outlook in the area in which he is going to be engaged. In that connection, I want to know whether you consider yourself an absolutist or a relativist as far as human rights are concerned.

Maybe it would be fairer to have you spin that out a little bit. Are you an obsolutist in the sense that if there is, in fact, some violation of human rights you feel that would require an immediate and strong response on the part of the United States, or are you a relativest in that you would look at trends, you would look at the direction in which a government was going?

I do not know that it is fair to you to take a current example any more than it would be fair to a judicial nominee to ask about a pending case.

If you look at the case of Iran under the Shah, there certainly were some instances of violations of human rights but there were also some trends, such as the fact that the Shah had asked the International Red Cross to visit prisons on a regular and continuing basis.

How do you feel about that? Are you an absolutist or a relativist?

Mr. ABRAMS. You may be surprised to hear me say that I think I come out somewhere in the middle.

Senator MATHIAS. I do not know if that would get you your confirmation. We want to know where you really are.

Mr. ABRAMS. I do not find there to be a "Yes" or "No" or a black-and-white choice between those two positions. I am an absolutist in

the sense that I think abuses of human rights require some rejoinder from the United States.

That is to say, if a country had been arresting 1,000 people a month and that was now down to 800 a month who were being put into jail as political prisoners, that we would not then say, "Well, the trend is good, so let us leave them alone."

I am a relativist in the sense that I do think that if the trend is good, we take note of that in the way that we speak to the country about its human rights situation and the way that we speak publicly about the human rights situation there.

For example, if we had been in the custom of denouncing a country for its human rights abuses, and the Government is clearly making an effort, and a successful effort, to improve its human rights performance, and the human rights situation in that country is improving, then I think the tone of our statements to and about that country should reflect that.

And there is, in fact, this provision in the statute—I do not recall the provision number—but there is a provision in the statute about taking clear note of trends and improvements.

So I think the answer is that I am an absolutist in the sense that we need to be concerned with all human rights abuses. Where the relativism comes in is that you have to calibrate your response in a manner that is most likely to be successful in continuing a positive trend or getting one going. And there I think one has to be very careful, because what one wants to do is not, as I said in the opening statement, to feel good about denouncing people for human rights abuses, it is to stop those abuses.

Senator MATHIAS. It seems to me what you are saying to us is that you are not in the middle but that you are an absolutist as to your judgments and a relativist as to your response.

Mr. ABRAMS. I will accept that characterization. I think that is correct.

Senator MATHIAS. Then that is accurate?

Mr. ABRAMS. I think so.

Senator MATHIAS. You talk about respondiing to your perception of trends. There is a disturbing trend currently in the Soviet Union, where there have been more arrests of Soviet Jews in the last 4 months than in the last 4 years, In the last 4 months seven Soviet Jews have been imprisoned. Just yesterday Alexander Paritsky received 3 years for defaming the Soviet state. This is a larger number than in any comparable time in the last decade.

Now, this seems to be a trend. How do you respond to that one?

Mr. ABRAMS. It does seem to be a trend. The Soviet Union is a country where we have very little diplomatic leverage. It is obviously not a friend of the United States. It is an enemy of the United States, And therefore, our ability to sit down and reason with the authorities about their behavior is very small. Nor do they adhere, even on paper, to the kinds of views about human rights that we in the West have, so that we can argue with them with some common understandings about what the ideal situation would be.

I think it is important even if we cannot—and we may well not be able to—influence that trend, to make sure at the very least that everyone in the Soviet Union knows that we in the West are watching those events with the greatest attention.

I say that because I think it is important that the rulers of the Soviet Union realize that we will never forget what they are doing, and we will not divert our attention for a moment. It is clearly very important that the people whose human rights are being taken away in the Soviet Union know that they are not forgotten in the West.

I spoke last week to an exiled dissident from the Soviet Union who told me of one incident of which he knew where a prison guard said to a prisoner of conscience, "You know, I heard your name on the Voice of America last night, or perhaps it was Radio Liberty." He said, "Well, obviously, the spirits of that prisoner were enormously raised, to think that not only was he not forgotten but his case was spoken of and remembered in the West."

Therefore, I think we need to continue to give this a very great deal of attention, although I think, speaking candidly, we have to acknowledge that the Soviet Union is a country where our ability to influence the Government is quite limited.

Senator MATHIAS. Averell Harriman, who has had broad experience in dealing with the Soviet Union during a longer period of time than any other living American, is of the opinion that although the Soviet leadership, I think in his phrase, "are not very nice people," they still have to be communicated with and negotiated with and persuaded. In the old phrase, you have to use the carrot as well as the stick.

I think that is as true in matters of this sort as it is in matters of arms control negotiations or any other kind of negotiation.

Would you be prepared to sit down and discuss these questions with officials in the Soviet Union, to talk with them, to negotiate with them?

Let me just give you one word of personal experience on this. I have had the occasion to discuss this question of Jewish emigration with President Brezhnev and with Foreign Minister Gromyko. Of the specific cases that I have brought to their attention, more than half have received favorable action.

What is your feeling and the feeling of the administration about that kind of negotiation?

Mr. ABRAMS. I think it is essential that we do that, and I think so for two reasons: One, as you indicate from your own experience, it sometimes can produce results, very specific results, such as getting people out of jail and reuniting families.

Second is because if we do not, the impression that can be left with the Soviets is that this is a propaganda campaign on our part, that we talk about it publicly but we do not talk about it with them privately and when we are really doing business with them quietly, we do not mention it.

If that were our behavior, then I think the Soviets would conclude that this is for political consumption in the West or at home and is not meant seriously. So I think it is absolutely crucial that we do these negotiations with the Soviets.

There are other fora, I should mention, in which all of this comes up. The U.N. is one of them. A more important one is the CSCE Conference in Madrid, the successor to Helsinki, where a lot of attention has been given to this question of political dissidents.

Senator MATHIAS. At that most recent conference in Madrid, was there not some success based on the fact that there was communication, that there was at the very human level an exchange of ideas and opinions and bargaining?

Mr. ABRAMS. I think there has been success at that conference. As you have said, there has been success in discussing these questions with Soviet officials. I do not think that we are, in fact, persuading them of our view; that is, we are not persuading them that they are doing——

Senator MATHIAS. But I am talking about success in terms of the actual alleviation of human conditions.

Mr. ABRAMS. Yes. I think we have had some success with that, and we will continue to if we continue to press hard enough.

Senator MATHIAS. What about the "refusniks"? How can you help the "refusniks" in that light?

Mr. ABRAMS. I think what one can do is to continue to give the greatest possible attention to their plight and to press the point publicly and privately. I think to do either one without the other is not sufficient. But if we do both, we can hope for some results.

Again, I am not overly optimistic about this. I think our ability to influence the Soviets on major questions of domestic policy in the Soviet Union, on levels of repression exists, but is limited. I think we do this in part because we know it will have some results. We cannot be sure how much the results will be, but it will have some results, and it is worth doing for that.

Senator MATHIAS. What is your estimate of the current effectiveness of Jackson-Vanik in this regard, and what is the administration's policy with respect to Jackson-Vanik?

Mr. ABRAMS. The only statement on Jackson-Vanik I recall by the President was a very firm statement of support for it. I do not recall the date of that.

Senator MATHIAS. Do you personally think it is an effective instrument of national policy to assist in emigration at this time?

Mr. ABRAMS. Do I personally?

Senator MATHIAS. You personally.

Mr. ABRAMS. Personally, I very strongly favor the Jackson-Vanik amendment.

Senator MATHIAS. My time is up. I have several more questions, Mr. Chairman, at the appropriate moment.

The CHAIRMAN. Thank you very much, Senator. We have a business meeting starting at 11 o'clock. I think we can get back to you before then. We will proceed on a 10-minute time limitation.

Senator Lugar, we welcome you here this morning, and you are recognized.

Senator LUGAR. Thank you very much, Mr. Chairman.

I will expedite returning to Senator Mathias' questions, because I come this morning simply to express my support for this nominee. I think Mr. Abrams is distinguished by his record. Likewise, I think his statement addresses the issues as I see them: that we must tell the truth and we must be effective—two very difficult tasks. I wish you well in that quest.

I like the things that you have said in response to Senator Mathias as well as to many other interrogators on other occasions. I look forward to supporting you.

Mr. ABRAMS. Thank you very much, Senator.

The CHAIRMAN. Thank you very much, Senator Lugar.

Senator Pressler.

Senator PRESSLER. I want to join in those remarks and to welcome a fellow colleague of mine from Harvard Law School to this committee.

I want to ask some questions regarding Argentina. I noted this morning that the Reader's Digest has reprinted a section of the controversial book by Timerman. What will be your approach and the administration's approach regarding Argentina?

Mr. ABRAMS. I am a little reluctant to get into a great deal of detail, simply because I have not been in the human rights job. Let me say that the human rights situation in Argentina, as described by Mr. Timerman in his book, was terrible and harrowing.

We can think back a few years to the point at which thousands and thousands of disappearances were taking place, when there were thousands and thousands of political prisoners in jail. That situation at this point, however, is largely a matter of the past in Argentina; that is, there has been significant improvement in the human rights situation in Argentina. The number of political prisoners, which at one time was something like 8,000, has been reduced now to something like 800.

I have a whole list, which I will not read to you, of such improvements. It is in the briefing book. The situation is a much better one now. This is not to say that we do not want this trend to continue. We obviously do.

But it would be very foolish of us not to take account of the great improvements that have taken place in the human rights situation in Argentina. It was for that reason that the administration decided to change the U.S. voting pattern in international banks, to take account of the improvements which have taken place.

I guess I will stop there.

Senator PRESSLER. In other words, you feel the current government is moving toward a better situation. Will you, for example, pursue getting a list of the "disappeareds" or anything of this sort?

Mr. ABRAMS. The current government has made a number of moves to improve the human rights situation, and we will encourage them to continue those moves.

The question of the "disappeared" is the most difficult question for the Argentine political system today. The way in which that question is handled, the question of the "disappeareds," hangs over the future of Argentina. It is probably going to determine, in large part, whether Argentina can continue to evolve as it has in the past couple of years in a more favorable direction with respect to human rights and ultimately toward democracy or whether it will not and in fact will regress to a worse situation.

We would like to be as helpful as we can. We would like to help the Argentines as much as we can in figuring out a way to handle that situation in a manner which lets them continue to evolve rather than throws them back into the middle of what I suppose can only really be described as a civil war and was a situation of enormous violence.

Senator PRESSLER. We had a hearing last week on the subject of "yellow rain" and the issue of the Holocaust in Kampuchea, Laos,

and Afghanistan. What will your activities be regarding human rights of people in that situation? What initiatives do you intend to take?

First of all, would this fall in your area of jurisdiction, doing something to determine if the "yellow rain" story is true; and second, the whole issue of human rights in those three countries, especially Kampuchea, which I personally believe is a Holocaust as great as any we have had in history?

Mr. ABRAMS. The human rights situation in those countries is horrendous. The "yellow rain" question, the question of the use of chemical weapons, falls as many questions do within various bailiwicks within the State Department, the Politico-Military Affairs Bureau, the Human Rights Bureau, the International Organizations Bureau, because there is a U.N. team working on this question, the East Asia Bureau, since that is the location of what we believe to be the use of chemical weapons against civilian populations.

It is one of the most extraordinary, one of the most despicable and flagrant violations of the norms of human conduct in this century. What differentiates it from some of the more famous episodes is that the scale thus far has been small. But the level of suffering has been incredible.

You really must go back to the beginning of this century, when every civilized country quickly reached agreement that chemical and biological weapons were never to be employed. And the violation of those standards is really one of the most astonishing and one of the most terrible human rights violations now going on and and which has occurred for a very long time.

I think what we can do is to try to develop the evidence first. And we are doing that. We are continuing to do that. Mr. Burt testified last week before Congress about the kind of evidence that was coming forth. Others are doing it as well in, I suppose, a less scientific way. But I know that there are a number of teams from various news media, American and European, trying to look at this question as well.

Our hope is that if enough attention is dedicated to this around the world, the perpetrators are going to stop. If they have any sense of shame, if they have any sense that the opinion of mankind matters, we can hope that this exposure of this practice will help to stop it.

Senator PRESSLER. A human rights question involves the emigration of Jewish citizens from the Soviet Union to Israel. But I understand that in Vienna, at the exchange point, many change their point of destination to the United States, which, of course, is a compliment to our country.

The Soviets have made the argument that the real argument is not a lack of human rights rights, it is a desire to come to the United States and the original intended destination of Israel is changed to the United States in Vienna. Is this true? And what implications does that have for your office?

Mr. ABRAMS. I suppose the first thing that one needs to say is that the Soviets have been lying about this question for years. One of the most fundamental human rights is the right to emigrate, the right to leave a country. I cannot think offhand of any international human rights convention or covenant or treaty of any scope at all that does not include the right to emigrate. And what the Soviets are doing is denying it to substantial numbers of people in the Soviet Union.

And it is not, of course, just Jews. In fact, I believe there is an article in one of the newspapers today about the case of Germans in the Soviet Union who would like to leave. This is a fundamental human right, and it is being denied by the Soviet Union. And they throw up a smokescreen of the apparent concern about what is going on in Vienna or what people's ultimate destination is.

What you have is people who wish to leave a country in which there is no freedom and in which they are persecuted and who wish to go to places where they can live and direct their own futures. That, I think, is what is at issue.

Senator PRESSLER. Therefore, in response to the Soviets, you would merely say that people have a right to emigrate, whatever their stated intention is? I have no debate about that. But what percentage of the people who emigrate from the Soviet Union in Vienna change their point of destination? Do you know the answer to that?

Mr. ABRAMS. The answer is a substantial proportion. I do not have that precise figure, and I will have to supply for the record a number. But it is a substantial proportion.

[The information referred to follows:]

According to recent State Department figures, between eighty-five and ninety percent change their point of destination.

It seems to me I might just say, to reiterate, that that is in a sense not relevant to the human rights issue. The human rights issue is whether people have the right to emigrate. And under any international convention, including the many signed by the Soviet Union, they do.

Senator PRESSLER. Thank you very much.

Mr. ABRAMS. Thank you, Senator.

Senator PRESSLER. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Mathias, I think we have time for you and I to finish our questions.

I would like to pursue a question which both of my colleagues have asked you about, Mr. Abrams and I would appreciate you being specific about what you might be able to do. I do not think there is any more satisfactory thing I have done in my 15 years in the Senate than work on the problems of Soviet Jewry, because over the period of time, we cycle in and cycle out periods where there is a great responsiveness, where the Soviet Union does listen to us, where the Soviets have been extremely helpful in reuniting families.

The curtain did go up. We discussed that at great length in a delegation that went to the Soviet Union led by Senator Humphrey. Certainly, when Secretary General Brezhnev was here at Blair House, it was the one question for which he was totally prepared. He had a little black book. He cited figures and so forth. We had a thorough discussion on this particular issue.

I think we are now at a really critical stage. Jewish emigration from the Soviet Union is at the lowest point that it has been since I can remember. Exit permits have dropped to less than 100 families per month and are still declining. The emigration rate is 10 percent of that of 1979.

We have constant reports almost daily of ceaseless harassment, arrests, and trials. There have been unparalleled assaults on Jewish

study groups in the major urban areas. Certainly, we deplore the fact that Soviet Jewish emigration is at such a low level.

Also, specifically, we were alarmed to see that seven Soviet Jews have been imprisoned in the past 4 months for what are called "anti-Soviet activities."

Even given the accord that the Soviets have agreed to, we are concerned not only about Soviet Jewry but also Ukrainians, Lithuanians, Latvians, and Estonians. There has been repression of people who have become members of Helsinki Accord monitoring committees, an accord to which the Soviets have solemnly signed their names. And these people have been repressed and pushed down.

In questioning the Secretary recently, I posed to him the question as to whether we should not aim toward putting on the agenda and asking the President to put on his agenda a meeting with Secretary General Brezhnev in 1982. I think at that stage a summit must be held. It is crucial that we literally sit down and talk eyeball to eyeball to talk out some of these problems.

Emigration is one of many problems on that agenda. It would be an agenda item, however, for which you would have particular responsibility. Do you think, Mr. Secretary, that we should put that on an agenda at the summit and that it would warrant that kind of treatment?

Mr. ABRAMS. Absolutely, Senator. I think nothing would do more to prove to the Soviets, to prove to Mr. Brezhnev how seriously we take these matters and that we will never let up, not for a moment, than a strong statement directly, face to face, by the President on this issue.

I will push as strongly as I can for such a statement, if we ever schedule a summit meeting. The situation as you describe it in the Soviet Union—and I think you describe it accurately—is a very bad one.

In the Paritsky case, which was mentioned, it goes from bad to worse. There were some threats made, for example, against the children of the Paritskys, that in view of the fact that the father had violated all of these laws, the children might be taken away from the family and sent off to some education camp somewhere. The level of barbarism with which the Soviets behave in some of these cases is just horrifying.

Again, it is Soviet Jews and many others in the Soviet Union as well who are so persecuted. My responsibility here is one that I take very seriously. It is to keep this on the agenda, to keep it as near to the top of the agenda as I can at all times.

I came down from New York almost 7 years ago and came to Washington to work for Senator Jackson. One of the reasons I wanted to work for Senator Jackson was because of the respect, commitment, and admiration that I had for his work on this question. It is something to which I intend to pay a great deal of attention.

The CHAIRMAN. Thank you. Let me skip over now to our own hemisphere, where, from everything we can learn, the human rights situation in El Salvador is going from bad to worse. There are recent reports, some of which I have discussed in detail with the minister of defense when he was here last week, which are just horrifying.

What role do you expect to play in seeking improvement in the human rights situation in El Salvador? Do you expect to visit the country at any point? What should the present government's leaders expect to hear from you?

Mr. ABRAMS. I might say that I have not made any travel plans. It has occurred to me that no country is likely to volunteer to be the first one that I visit. But I do intend to make a visit to South America in the next year.

The situation in El Salvador is very bad. The level of violence is unfortunately, very high. It seems to me that this is a case where we need to ask ourselves what we can do that is going to improve that situation.

We have been talking at considerable length with officials of the Government of El Salvador about this issue since January 20, and we will continue to do so. I will continue to urge that we do so in strong terms. Should the United States renounce its efforts in El Salvador, it seems to me the result would be the takeover by a Marxist-Leninist regime. I think we have enough experience to know what that means for human rights of the people of El Salvador.

What we are pressing for, and I think we should continue to press for is an evolution toward democracy. It is not going to be easy. The first step, I think, would be the scheduled election for March of next year. We no doubt will keep a firm and intense interest in the human rights situation there. It seems to me this is a case where we have confidential and good relations with the Government of El Salvador, and our discussions with them on this issue can be most effectively carried out in private.

This is a situation where there are forms of attack and criticism of that government which are likely to do very little other than to delegitimize and destabilize and make the human rights situation there, not only in the long run, but in the very short run, even worse.

The CHAIRMAN. I think it would be most helpful to us to have as much factual information as possible in that area. It is an area in which Senator Pell has been deeply interested. Senator Dodd recently visited El Salvador. The entire committee is deeply concerned about it.

There is a question of fact in this. The government simply says some of the statements are totally false, as well as some of the articles we have seen most recently. A most recent one appeared Saturday in the Washington Post. So factual information from you and your Bureau would be very helpful to us in working with the government down there to see what the situation is.

The final question that I would like to ask before turning to Senator Pell and Senator Mathias is this: Would you comment to the committee on the present practice of publishing annual country-by-country human rights estimates? Do you feel that this type of reporting is appropriate? And do you think that these reports have had a constructive effect overall on the human rights practices of other countries?

Mr. ABRAMS. I do think so. I think there is no question that these reports on occasion and in certain places makes some trouble for us. The question is whether it is worth it. I think it is. I think they have come to symbolize the attention we give to human rights issues and the commitment that we have.

You spoke before about the Voice of America and the need for integrity. I think the fact that we do these reports—and I think they are generally acknowledged to be really of a very high standard and to be truthful and accurate—also contributes greatly to the impression that we are willing to call the shots as they are and that we have a strong commitment on this issue.

The CHAIRMAN. Thank you very much.

Senator Pell, we are happy to have any statement that you would like to make, and any questions.

Senator PELL. Thank you very much.

Rather than a statement, I would like to read into the record a letter that I wrote a week or so ago to Secretary Haig. It says:

> DEAR MR. SECRETARY: I was delighted to read in the New York Times on November 9 that the President has approved your recommendations on the role of human rights and foreign policy. Our belief in human freedom is our greatest asset, and I am pleased the administration is moving to exploit it. I am particularly encouraged by the recognition that our friends as well as our enemies must be held accountable for their conduct in human rights matters. Evenhandedness is the essence of a credible policy.
>
> Finally, I want to indicate my support for giving the Human Rights Bureau the specific role in providing policy guidance to other government agencies. This is a positive step in strengthening U.S. Government human rights policy.

And I think this view is one shared by many of our colleagues, and I think an example of the President's and the Secretary's belief in human rights is shown by the fact that they are going to appoint an activist secretary in the job. And I look forward to working with Mr. Abrams. I am sure he will do an excellent job.

I am delighted both that the job is being filled and that you are the man who is filling it.

I have a couple of specific questions. First, what would be your relations with the refugee administrator, and how will that operation be conducted?

Mr. ABRAMS. First, Senator, thank you for your kind words.

The relations with the Refugee Bureau will of course be close. Until recently, that is 4 years ago, they were one Bureau. The Human Rights Bureau retains jurisdiction for asylum cases. It is in these, in part, that we will be working very closely with the Refugee Bureau.

I think for one thing that it is very important to achieve good and and close working relations at the Assistant Secretary and Deputy Assistant Secretary levels. I will try to do that as soon as I am in the job and as soon as there is a Refugee Bureau head and as the deputies in my Bureau are appointed. There are two vacancies now.

Senator PELL. Who presently is running the refugee office? Is it a bureau or is it an office?

Mr. ABRAMS. Mr. Dick Vine, is running the Refugee Bureau now. I gather that he either will have or does have the rank of Ambassador.

Senator PELL. Has he been appointed as the permanent head of this Bureau or is he just acting?

Mr. ABRAMS. I am not sure if there has been any announcement as to how that will go. These were the two jobs that were vacant longest in the administration in the State Department. Judge Clark, at the request of the Secretary about a month or so ago, took charge of filling both of them. I expect there will be some action on that very quickly.

Senator PELL. I think it was an error to separate those two responsibilities. What is your view in this regard?

Mr. ABRAMS. I really do not have an informed view yet, Senator. I would want to wait until I became more directly involved before reaching a conclusion. I hope that you will agree with me, though, that if they should be reunited the Human Rights Bureau should be the remaining bureau.

Senator PELL. I think it should be the Bureau of Human Rights and Refugee Affairs, which is what it was originally. I believe it was an error to have split it up several years ago, as was done.

Published excerpts from a State Department memorandum on human rights policy state that we, the United States, "must abstain from supporting a vote against friendly countries in the multilateral development banks on human rights grounds if their conduct merits it."

That is more than just policy. And section 701 of the International Financial Institutions Act makes it law.

Earlier this year the United States voted in favor of the MDB loans totaling $790 million to Argentina, Chile, Paraguay, South Korea, and Uruguay. If proposals for loans to these nations come up again and the human rights practices have not changed measurably from those now prevailing, what position would you recommend the United States to adopt?

Mr. ABRAMS. Argentina, Paraguay, Uruguay, Chile, and South Korea?

Senator PELL. Yes, those five. You did say Paraguay, didn't you?

Mr. ABRAMS. Yes. I would say first of all, if those come up again I would take a much closer look at the human rights situation in those countries than I have done yet, because I have not been in the job. From what I know of the situation in those countries, I would be in favor of the position the administration has taken and would support it.

The statute does also say—and again, I cannot quote the section, but there is a portion of the statute which talks about trends and improvements. In each of those countries, I think one can point to improvements in the human rights situation over the last few years. In each of those cases, I would think that we can do more by trying to work with the government and pressure it as strongly as we can to continue any favorable trends, than by this kind of public denunciation.

None of those countries, I would point out, was ever found to be a gross and consistent violator of human rights by the Carter administration.

Senator PELL. Do you think it would be a good idea if the President cranked into his decision to invite or offer hospitality to visiting heads of states the records of those countries when it comes to human rights? I am thinking, for example, of President Chun of South Korea.

Mr. ABRAMS. In general, yes; I do think it is important to take that into account, although I do think we have to recognize that it cannot be decisive. On human rights grounds, for example, he would never meet with President Brezhnev of the Soviet Union. Yet there are so many reasons to do so that I think we would not want the human rights question to be the only one considered. That would be true in other cases as well.

But I certainly do believe it is one of the considerations that should be taken into account.

Senator PELL. Thank you very much and my congratulations to you on this nomination.

Mr. ABRAMS. Thank you, Senator Pell.

The CHAIRMAN. Your presence, Senator Pell, this morning is very important because you make absolutely bipartisan our expression of appreciation to the administration, not only for its enunciated policy, which Secretary Abrams has totally associated himself with and been very much a party of, but also his nomination.

Senator Mathias, I think you can finish up and take until 11 o'clock if you like.

Senator MATHIAS. I hope my questions will not take quite that long, Mr. Chairman. But I do think there are a few things that we need to explore.

Mr. Abrams, for example, has been critical, and I think properly critical, of the Soviet Union for denying the right to emigrate. I believe you called the right to emigrate a basic human right, did you not?

Mr. ABRAMS. Yes.

Senator MATHIAS. Just recently, the U.S. Government went into the Supreme Court of the United States and sought the right to lift passports. Now, as the Assistant Secretary of State for Human Rights, what is your comment on that action and that attitude, which is to assert the right of a government to prevent its citizens from leaving the country if they so desire?

Mr. ABRAMS. Are you referring to the *Agee* case? I would like to have the facts in mind before I respond.

Senator MATHIAS. I will send you a copy of the Court's opinion and the briefs in the case. But the effect of the Court's decision is to grant the Government the right to lift a passport, and that is asserting the right of a government to prevent a citizen from leaving the country, is it not?

Mr. ABRAMS. If the Court were to make the judgment that for any or no reasons a passport could be revoked, it would be tantamount to doing that.

Senator MATHIAS. Well, there are always reasons.

Mr. ABRAMS. But sometimes the reasons—if someone commits a murder and then tries to leave the country, he is not trying to emigrate.

Senator MATHIAS. He would be a fugitive from justice. That would be a different case.

Mr. ABRAMS. There are exceptions to the general rule.

Senator MATHIAS. Someone who is in a Federal penitentiary is not going to be allowed to leave the country, at least until his sentence is over. But we are not talking about that kind of case.

We are talking about the case of someone whom the Government, for some subjective reason, may not wish to have circulate around the world.

Mr. ABRAMS. Well, if it is a subjective reason, if it is, if you will, a political reason, then it would seem to me to violate a number of international conventions. That is why we have a Federal court system, to make sure that no State Department and no Federal Government can do that.

Senator MATHIAS. Do you not have any question in your mind about the Federal Government setting up a system by which the State Department can refuse a passport or lift a passport and thereby effectively prevent emigration?

Mr. ABRAMS. I have a lot of questions about it.

Senator MATHIAS. Well, will you inquire into it?

Mr. ABRAMS. I certainly will inquire into it.

Senator MATHIAS. Does it not raise at least in your mind an embarrassing kind of situation in which you could be, in which you would be criticized by the Soviet Government for restricting the right to emigrate when, in fact, we may be setting into motion in this country a system which could have an effect of severely limiting the right to emigrate?

Mr. ABRAMS. If it did that, Senator, it would be very difficult for me and for any spokesman of the United States. My memory of these cases, which I must tell you is not good, is that the system in fact does not do that and that the proper response to an attack from the Soviets or anybody else would be a statement of what the facts are.

Senator MATHIAS. Of course, it is not only a case of your personal embarrassment in sitting face to face with somebody who raises the question with you. It is also a question of whether we are right as a government in so restricting the right to travel, the right to move around the world.

One of the most basic elements of freedom, of course, is the right to move freely.

Mr. ABRAMS. As I recall the case, the Supreme Court's decision was a very narrow decision. It was misinterpreted in many of the newspapers as a very broad one. But as I recall the case, the Court's decision was based really on extraordinary circumstances which are very unlikely to recur, or at least recur often.

Senator MATHIAS. Would you look at that decision and give us your thoughtful view on it? I do not want to press you if you do not have the facts clearly in mind today.

Mr. ABRAMS. Absolutely.

[The material referred to follows:]

The revocation of Phillip Agee's passport was a unique case involving a former employee of the Central Intelligence Agency who announced a campaign "to expose CIA officers and agents and to take the measures necessary to drive them out of the countries where they are operating." Following this 1974 announcement, Agee traveled extensively to other countries consulting sources he knew from his prior service and training collaborators to expose CIA employees. Despite having voluntarily agreed as a condition of CIA employment not to publish any information relating to the Agency without its consent, Agee wrote two books identifying hundreds of persons as CIA employees.

Though the government did not assert that Agee specifically incited anyone to commit murder, threee individuals identified in Agee publications as working for or connected with the CIA were murdered and two attempts were made on the life of another. Furthermore, government affidavits show that Agee made contact with the captors of the fifty Americans held hostage in Iran, urged them to demand certain CIA documents, and offered to travel to Iran to analyze the documents.

The U.S. Supreme Court upheld the U.S. Government's right to revoke Agee's passport on the grounds that there was the likelihood of serious damage to national security or foreign policy. In making its decision, the Court stated that neither Agee's First or Fifth Amendment rights had been violated. The Court

ruled that passport revocation inhibits action, not speech, and that Agee was afforded due process in the revocation process. I share the Court's view and, in the context of human rights, I believe a sharp distinction can be easily made between a citizen criticizing his government and a former intelligence agent attempting to damage national security.

Senator MATHIAS. Let us move on to another case. A few minutes ago you said that President Reagan and you personally strongly supported Jackson-Vanik. As we know, President Reagan also has espoused the policy of linkage. How do you reconcile being for Jackson-Vanik and for linkage and lifting the grain embargo on the Soviet Union?

Mr. ABRAMS. I must say they thought up almost every question in these briefing books, but they did not think about the grain embargo.

Senator MATHIAS. I think it is a very important question, because in answer to Senator Pell, as well as Senator Pressler, you talked about how we can deal with the Soviet Union on the question of emigration. Here we give away, or I assume we give away—I am not aware of any quid pro quo at the time of lifting the grain embargo. Certainly the Soviet Union did not leave Afghanistan.

Mr. ABRAMS. As I understand the feeling——

Senator MATHIAS. I am not interested in what is in your briefing book. I am interested in what is in your mind.

Mr. ABRAMS. I can assure you there is nothing in the briefing book about most of the questions that have been asked today. [Laughter.]

The opposition in some quarters to the grain embargo—and those quarters include many people on the Hill— I think was that it was product specific, if you will. That is, rather than asking broad portions of the U.S. economy to share the burden of hitting at the Soviets in a place where it hurts them very hard, we asked one particular and fairly narrow portion of the U.S. economy to take all of that burden, that, it seems to me, is the strongest argument in favor of lifting the grain embargo.

The Jackson amendment is based on the principle of linkage. It is one in which I strongly believe.

Senator MATHIAS. To be perfectly fair to you. I might say that I was against putting the embargo on and I was against taking the embargo off. I thought, once we had it on, it should not be removed unless there was some kind of linkage, some kind of agreement.

I find it somewhat difficult to reconcile those positions of being, on the one hand, in favor of Jackson-Vanik and the kind of restrictions on communication and commerce which that provision of law implies, and then to simply lift the grain embargo without any linkage whatever with the human rights question or the strategic question of the the Soviet presence in Afghanistan, or anything else that is visible to the ordinary layman.

I wish you would tell us today that there was something that we have missed, but I do not know what it is.

Mr. ABRAMS. I have to tell you, Senator, that in the capacity in which I have been working since January no one would have consulted me, nor did anyone consult me, nor was I in a sense involved enough in the decision to know the thinking that went into it.

Senator MATHIAS. One of the purposes of these hearings is to try to give you a little warning as to the broad area in which you may be

involved. Clearly, I would hope you would speak up in the future if there is a decision comparable to the one lifting the grain embargo. I would hope you would say, well, hold on, what about the human rights aspect of this. There is a human rights aspect to this, there is a linkage aspect to this.

I have just one final question, Mr. Abrams. Dr. Ernest Lefever once said that he thought all the statutes relating to human rights ought to be repealed. I suspect this is in your briefing book. [Laughter.]

Do you have any personal reservations about any of the statutes that relate to human rights?

Mr. ABRAMS. I do not have any reservations about any of these statutes as they sit on the books today. I think, to be completely frank, I want to go beyond that answer, though. I think that they represent a period, the 1960's and 1970's, I think we could call that the period, when the Congress came to lose any sense of confidence that the executive branch was carrying out foreign policy in the way it wanted in many areas, not just the area of human rights, and there came to be a much greater activism on the part of Congress in a number of areas, including human rights.

In that sense, the thing that disturbs me about the statutes is not what they do, because I would hope that we would do that anyway, but what they represent. What they represent is a feeling on the part of the Congress that the administration, any administration, will not have a firm human rights policy unless Congress pushes very, very hard.

My hope would be that some day—and I am talking about 10 or 15 years from now, I think realistically—the Congress would come to see these statutes as not particularly useful because it would be so clear that every administration was following these policies anyway. But it is not clear to the Congress and to the country at large about administrations, really, going back over the last 10 or 15 years.

In that sense, the only way to create this climate of confidence and to make you sure that this is being done is to have these statutes on the books, and so they belong there.

Senator MATHIAS. I certainly can accept that answer and appreciate it. I would only add, as tribute to the chairman, to Senator Pell, and to other members of this committee before I joined it, that of course this human rights policy originated in the Senate. It did not originate with the Carter administration. The Carter administration found it in being when they got to town.

And it was not only to impress Congress that the executive branch was interested, or it was not only to impress the American people that the Government at large was interested, but it was to impress the world that the American people were interested in human rights, that there were other ways to show concern than by supporting wars of national liberation, by supporting revolution, by launching terrorists in the world under any kind of revolutionary banner; that by a consistent and eloquent expression of the American commitment to human rights we would make it clear to the world at large that the ideals of the American Revolution were still very much alive in our hearts, and that we were, as John Adams said, prepared to be a beacon unto the world.

I would hope that in that spirit you would have a very successful administration in your office. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator Mathias.

We will make a matter of record that Elliott Abrams recently has been associated with the distinguished law firm of which our mutual friend Harry McPherson is a senior partner. He also was associated as assistant counsel with the U.S. Permanent Subcommittee on Investigations, on which I have served throughout my career in the Senate; that he is highly regarded by his colleagues there, Members of the Senate and by his peers.

He has been associated with two distinguished Senators, Senator Jackson and Senator Moynihan. To have that association with outstanding Democratic Senators and to be nominated by a Republican administration to this post is certainly the spirit of bipartisanship at its best.

Because of the expedited way in which this administration has handled your nomination and approved the memorandum on human rights as a matter of policy, I can promise you, Secretary Abrams, record handling of your nomination by this committee. We will vote on it within the next few minutes. It will be sent to the floor of the Senate, and without any question the advice and consent of the Senate will be obtained this week. I will ask Senator Baker to handle your nomination on an expedited basis so that there will be no question about where we stand with respect to you.

More importantly, we really look forward to working with you and members of the administration in developong a policy which, as Senator Mathias has said, originated in the Senate in a sense, but must be implemented and carried out in total cooperation. I feel that never have we started on a course of action more of one mind than is apparent here today working to develop a clearcut policy than we will want to work with you in implementing.

There are many ways in which we can help you, beginning with every visitor who comes to this country, to reinforce a commonality of goals, objectives, and interests.

We would be very pleased to have you and members of your family who are here to step in the back of the room so that we can say hello to the family and indicate to your wife Rachel and your son Jacob that what you have embarked upon is a tremendously important decision, an important decision for you to give up another area of responsibility that maybe sounds a little more glamorous.

But in a sense this is, in a true sense, the most meaningful thing that you could undertake in your very young but brilliant career. And we just want to evidence our support for you all the way through, and to extend to you our great admiration.

Mr. ABRAMS. Thank you very much, Mr. Chairman.

The CHAIRMAN. Senator Kassebaum, do you have any questions or comments?

Senator KASSEBAUM. No, Mr. Chairman, I do not. Thank you.

The CHAIRMAN. If not, this hearing is now adjourned and we will pick up immediately in 5 minutes with our scheduled business meeting of the committee.

[Whereupon, at 11:05 a.m., the committee adjourned, subject to call of the Chair.]

APPENDIX

Prepared Statement of Theodore R. Mann, Chairman, National Conference on Soviet Jewry, Washington, D.C.

Mr. Chairman: The National Conference on Soviet Jewry, representing a constituency of 39 national membership organizations, and nearly 300 local affiliated community relations councils and federations, welcomes the nomination of Elliott Abrams as Assistant Secretary of State for Human Rights and Humanitarian Affairs.

The pursuance and protection of international human rights, both individual and group rights, must remain a cornerstone of U.S. foreign policy. We are therefore pleased that this important step has now been taken, thus reaffirming our Government's traditional commitment to human rights.

The more than two million Jews in the Soviet Union, together with countless other people around the world who suffer discrimination and persecution on the basis of religion, nationality, race or political belief, look to our country to help them achieve those elementary rights and freedoms which Americans take for granted. Their confidence in our commitment to their fate can only be enhanced by America's insistence in supporting the oppressed, the silenced, the victimized—publicly at times, privately at other times.

No nation should ever have reason to doubt our resolve to enshrine principle—the pursuance of a goal because of its inherent moral correctness—in its foreign policy formulations.

Indeed, human rights policy can not be operated in a vacuum, separate and distinct from other foreign policy considerations. Deed must match word. The National Conference on Soviet Jewry therefore supports the view that there are occasions—to be judged on the merits of the individual case—when human rights concerns should be linked to other issues on the bilateral and multilateral agenda. To act otherwise would be to send a message that our performance falls short of our promises.

In this spirit, we urge continuation of the annual country-by-country reports for friend and adversary. Such reports, when written in a balanced manner, serve the effective purpose of the public monitoring of human rights compliance around the world.

We believe the Helsinki Review Process has been helpful, especially with particular attention to compliance with the human rights issues embraced in Basket Three. We would hope that the Bureau of Human Rights and Humanitarian Affairs would immediately take the lead in seeking representation, as prescribed by the law, from the Departments of State, Commerce and Treasury on the Commission for Security and Cooperation in Europe. Those positions have been vacant for too long. This could send a false signal that the Administration does not favor the CSCE process.

Private human rights agencies in this country have a significant role to play in the field of safeguarding human rights. We urge the Bureau to create a regular consultative mechanism with the human rights community for the mutually productive exchange of information and ideas.

In conclusion, we express a hope that the human rights dimension will be an active component in the formulation of American foreign policy. The Bureau of Human Rights and Humanitarian Affairs should become a major force in that process.

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